HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1123 of 2005

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Between:

Smt.P.Atchamma and four others

……Appellants

And

Government of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue Department, Secretariat,
Hyderabad and three others

……Respondents

:: JUDGMENT ::

Counsel for the Appellants : Smt. A.Anasuya

October 30, 2006

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 18-09-2006 passed by the learned Single Judge in Writ Petition No.18266 of 2006, whereby he declined to quash Errata Notification F.No.M1/69/PROT/RR/04, dated 13-03-2006 issued by the Government of Andhra Pradesh, which was published in Andhra Pradesh Gazette dated 06-04-2006 and by virtue of which, the land comprised in Survey Numbers 191, 192 and 194 of Manikonda Village, Chevella Mandal, Ranga Reddy District was declared as wakf.

The appellants are said to have purchased land in Survey Numbers 190 to 192 from M/s.K. Venkata Reddy and eight others who, in turn, purchased the same from the original owner. They questioned the legality of notification dated 13-3-2006 by contending that the lands enumerated therein form part of jagir land. They pleaded that after coming into force of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli and abolition of jagirdars under the Andhra Pradesh (Telangana Area) Abolition of Zagir Regulation, 1358 Fasli, jagirdar was given pattedar rights in respect of Ac.30-17 gts. of land comprised in Survey Numbers 185 to 196 of Manikonda Village. The legal representative of the pattedar, namely, Syed Mohammed Hussain sold a portion of Survey Number 194 to Smt.N. Subbayamma and others by registered sale-deeds, who, in turn, sold the same to one P. Vengala Rao. In the meanwhile, Kondakal Sivaiah and others filed applications before the Revenue Divisional Officer, Chevella claiming patta certificates on the premise that they are cultivating tenants. Their applications were dismissed by the Revenue Divisional Officer vide

his order dated 15-4-1981, but the Joint Collector ordered the issue of certificates. The order of the Joint Collector was challenged by Zainab Bi and others by filing an appeal before the Commissioner of Survey, Settlement and Land Records, who remanded the case to the Joint Collector for fresh adjudication of the appeal. According to the appellants, the land in question never formed part of the wakf and, therefore, the State Government did not have the power, jurisdiction or authority to notify the same as wakf.

The learned Single Judge dismissed the writ petition by observing that the petitioners (appellants herein) can avail the remedy under Section 83 (1) of the Andhra Pradesh Wakf Act, 1995.

Smt. A.Anasuya, learned counsel for the appellants argued that the writ petition was dismissed by the learned Single Judge at the threshold without giving her proper opportunity of arguing the case and without considering the pleadings in the form of affidavit of appellant No.4, Shri P.Subba Rao and documents annexed with it. In support of this argument, Smt. Anasuya invited our attention to the averments contained in para 2 of the affidavit of Shri P.Subba Rao field with WAMP No.2350 of 2006.

In the context of the aforementioned argument of Smt.Anasuya, we deem it proper to observe that the grievance made on behalf of the appellants that their advocate was not given proper opportunity of hearing should first be made before the learned Single Judge by filing an application for review of the order under challenge. An appeal can be treated as appropriate remedy only if the petition filed for review is not entertained by the learned Single Judge.

With the above observations, the appeal is dismissed leaving the appellants free to apply for review of the order under challenge in this appeal.

As a sequel to dismissal of the appeal, WAMP No.2350 of 2006 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

30-10-2006
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